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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,090	06/14/2001	Johann Walter Grond	GROND-2 PCT	5638

7590

09/20/2002

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EXAMINER

WERNER, FRANK E

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 09/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☒ Responsive to communication(s) filed on June 14, 2001
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 21-34 ~~is/are~~ pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 21-34 ~~is/are~~ rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☒ The drawing(s) filed on 6-14-01 are informal. ~~is/are objected to by the Examiner.~~
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --

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1. Claims 21-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re base claim 21, no bay structure (floors, walls, ceilings, etc.) and rack structure have been set forth rendering the claim incomplete; further, it is not understood how structurally the load is transported in paragraphs "a" and "c" and it is not understood what the "vertical conveyor" is structurally comprised of; moreover, it is not understood how the load is transported in a vertical direction – is the transport in the vertical direction brought about by the vertical conveyor or what; the meaning of lines 12 to 16 is not understood; also, it is not understood how the "target location" (line 15) relates to the "rack aisle" (line 18). Re claim 23, an inferred change of direction is present and it is not understood what the same refers to – is the angle relative to the vertical, the horizontal or what? Re claim 24, this claim is an improper hybrid method – apparatus combination; further, it is not understood how the "transporting" steps in base claim 21 relate structurally to the "transport device"; also, in lines 9 to 11, it is not understood how the loads are displaced sideways into the racks and in lines 11, 12 and 14, ~~it~~ that the "vertical conveyors" are a duplication of earlier recited structure in base claim 21; lastly, the meaning of lines 13-15 is not understood. Re claim 26, line 2, "the ends" lack antecedent basis; also, it is not understood how the "lifting devices" (line 3) relate to the "vertical conveyors" (line 12). Re claim 27, it is not understood what the "plurality of rack elements" (line 2) ~~are~~ structurally comprised of & it is not understood what lines 3 and 4 refer to. Re claim 28, "the lifting devices" (line 2) lack antecedent basis and it is not understood how the "lifting devices" relate structurally to the "vertical conveyors" in claim 24. Re claim 29, it is not understood how

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the “transport devices” are structurally connected together – see also 37 CFR 1.83a. Re claims 30 and 32, these claims appear to be a duplication of structure. Re claim 31, it is not understood where (and how) the rollers are structurally mounted. Re claim 33, “the lower zone” (line 2), “the upward direction” (line 4), “the floor” (line 5) and “the force of the weight” (line 5) lack antecedent basis; further, no motive means has been set forth for the “lifting system” (line 3). Moreover, it is not understood in claims 32 to 34, how the “lifting and pushing system” relates to the “vertical conveyors” in claim 24.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kita et al (,449).

Kita et al disclose in at least Figs. 17 to 19, vertical conveyor 56 for moving the load 5 to a target level, bays 4, rails 7 in an unnumbered aisle for supporting a movable transport device 6 at each level & the transport device horizontally moves the load in[^] to a bay at a target location. It would have been obvious to have conventionally performed the method steps in the claimed manner, if desired. Re claims 25, 26, 28, 33 and 34, respectively, it would have been obvious to have substituted a conventional lifting and pushing system (as claimed) & to have included the two conventional claimed transport devices.

4. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiantella et al (,078).

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Chiantella et al disclose a vertical conveyor 8 for moving a container 40, etc. between floors 3 {containing bays 3 having guiding elements 25 (26)}, aisles having guiding elements 10 (11) therein and transport device 23 (24). It would have been obvious to have carried out the conventional claimed method steps.

5. Claims 24-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiantella et al (,078) as applied to claims 21-23 above, and further in view of Kita et al (,449).

It would have been obvious to have substituted conventional plural transport devices as taught by Kita et al (6, etc.). Also, note the appropriate obviousness discussions in paragraph 3 above.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. E. Werner whose telephone number is (703) 308-1140. The examiner can normally be reached on Wednesday to Friday from 5:30 a.m. to 6 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis, can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Summary:

Claims 21-34 are rejected.

Rejection – SSP 3 mos.

Application/Control Number: 09/868,090

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Werner/kl

September 9, 2002

Frank E. Werner
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PRIMARY EXAMINER 9/02
GROUP 3400 3652